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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FOURTH APPELLATE DISTRICT

DIVISION THREE

In re KENNY P., a Person Coming Under
the Juvenile Court Law.

ORANGE COUNTY SOCIAL SERVICES
AGENCY,

Plaintiff and Respondent,

v.

TRISH N.,

Defendant and Appellant.

G051271

(Super. Ct. No. DP023649)

O P I N I O N

Appeal from an order of the Superior Court of Orange County, Gary G. Bischoff, Temporary Judge. (Pursuant to Cal. Const., art. VI, § 21.) Affirmed.

Daniel G. Rooney, under appointment by the Court of Appeal, for Defendant and Appellant.

Nicholas S. Chrisos, County Counsel, Karen L. Christensen and Aurelio Torre, Deputy County Counsel, for Plaintiff and Respondent.

Trish N. (Mother) appeals from an order made at the 18-month review hearing (Welf. & Inst. Code, § 366.22, all further statutory references are to the Welfare and Institutions Code), finding she had been offered reasonable reunification services as to her son Kenny and terminating those services. The juvenile court found reasonable services had not been offered to the child's father, K.P. (Father), who lived in Vietnam, and continued the hearing for six months so services could be provided to him. Mother appeals, contending the juvenile court erred by finding she was provided reasonable services. We reject her contentions and affirm the order.

FACTS

Detention & Removal

Seven-year-old Kenny was taken into protective custody on March 28, 2013, based on allegations of physical abuse. Mother's live-in boyfriend, V.H., had repeatedly hit Kenny on the arm, hand, face, and buttocks with a stick with such force the stick broke, leaving marks and scratches. He slapped Kenny across the face. He sat on Kenny while he hit him. V. previously hit Kenny with a stick as discipline. Mother was present during the abuse and did not intervene to protect Kenny. Mother had also hit Kenny with a stick in the past as discipline.

During the investigation by the Orange County Social Services Agency (SSA) social worker, Mother repeatedly said Kenny was lying about being hit, he was "spoiled" and "a bad kid," and the social worker was wasting her time. Kenny said he was scared of Mother and V. During the initial interview, Mother repeatedly told Kenny it was all his fault and he was going to be taken away forever; Kenny began crying inconsolably. Mother gave the social worker names for possible placement of Kenny. She called the social worker later and withdrew the names saying "he can just stay at your shelter." Mother believed Kenny suffered from attention deficit hyperactivity disorder (ADHD) but had never sought any treatment for him. Father's whereabouts were unknown, but the social worker understood he lived in Vietnam.

A petition was filed on April 2, 2013, alleging jurisdiction under section 300, subdivision (a) [serious physical harm] and subdivision (b) [failure to protect]. The juvenile court placed Kenny in the temporary care and custody of SSA.

Jurisdiction/Disposition

In its report for the May 1, 2013, jurisdictional hearing, SSA reported that when interviewed in mid-April 2013, Mother continued to deny the abuse allegations saying Kenny fell down. The social worker was concerned because Mother seemed to view Kenny negatively and was detached from him. Although Mother seemed to care about Kenny's well-being, she had visited only once in the month since his removal. The social worker did not think Kenny was Mother's priority and thought she needed tools to better parent him. Mother indicated she was willing to participate in reunification services.

At the jurisdictional hearing, Mother submitted on SSA's report and stipulated to the juvenile court's findings. The court found the allegations of the petition true, declared Kenny a dependent child, and set a dispositional hearing for June 5, 2013.

In SSA's June 5, 2013, report for the dispositional hearing, the social worker questioned Mother's motivation to reunify. She was only visiting Kenny sporadically and often did not stay the entire time for the visits she attended. The social worker conceded Kenny had behavioral issues including lying, aggression, and failure to comply with redirection, and "could be a handful if his behavior is not corrected." Mother needed to "gain tools to better equip[] her in parenting [Kenny]."

At the dispositional hearing, Mother submitted on SSA's reports and stipulated to the juvenile court's findings. The court vested custody of Kenny with SSA and granted Mother reunification services in accordance with the service plan contained in SSA's report. Mother's case plan included as service objectives that Mother would interact with Kenny without physical harm or abuse and strengthen her parenting skills.

Her services included that she participate in counseling and complete parenting classes. She was given twice-weekly supervised visits with Kenny.

Six-Month Review Hearing

On September 6, 2013, SSA reported Kenny had been placed in a foster home in July. Mother had two no shows for counseling sessions—she said due to her work schedule. She had completed a parenting program in August. She was consistent in her visits and no concerns about the visits were noted.

In SSA's first report for the six-month review hearing, filed November 21, 2013, the social worker explained that although the potential for returning Kenny to Mother remained high, Mother had still not demonstrated an ability to protect him if returned. As of October, Mother still resided with V., who had inflicted the physical abuse on Kenny. Mother's therapist reported Mother refused to participate in conjoint therapy due to conflicts with her work schedule. Although Mother had completed a parenting program and a 20-week counseling program, and her counselor noted improvement in the goal of protecting the child from abuse, the social worker also noted further progress was needed in being consistent in her parenting style. Mother was not "able to transfer learned skills during her visits with Kenny." She "easily [became] frustrated with Kenny during the visits" and frequently ignored his achievements, while pressuring him to focus on his homework. Kenny often cried during visits due to the pressure imposed on him by Mother. At Mother's request, the social worker had provided Vietnamese-speaking referrals for additional parenting classes and counseling sessions. Mother told the social worker she had a "plan" for reunifying with Kenny but said it was "private," and she would not discuss it with the social worker. Kenny was doing well in his foster home.

In late November 2013, the social worker met with Mother to discuss her referral to individual therapy. Mother now indicated she was unclear as to why she needed any additional referrals. The social worker had to remind Mother she had

requested a Vietnamese-speaking therapist and Mother's previous therapist recommended Mother have further services to enhance her knowledge of Kenny's hyperactivity issues and Mother's coping skills for Kenny's behaviors.

At the six-month review hearing on December 4, 2013, Mother submitted on the reports and stipulated to the juvenile court's findings. Those findings included that reasonable services had been provided and continued supervision was necessary. The court extended Mother's reunification services. It appointed counsel for Father, who had been located in Vietnam. A 12-month review hearing was set for May 27, 2014.

12-Month Review Hearing

By the 12-month review hearing, Kenny's behavior problems including "not following directives, throwing and destroying properties, sexualized behaviors, tantrums, and bed wetting" worsened. His foster home gave up placement. At the end of January 2014, he was moved to New Alternatives Sibling Assessment Facility (New Alternatives) because there was not another foster home that could accommodate him.

In its May 15, 2014, report for the 12-month review hearing, SSA reported Mother continued to blame Kenny for the situation, failed to accept responsibility, and continued to live with her boyfriend, V. She had numerous "'no shows'" for visits with Kenny. She demonstrated "limited desired behaviors indicative of responsible parenting" during her visits with Kenny, and had limited verbal engagement with Kenny during visits. When Mother missed visits, Kenny would have "meltdown[s], crying excessively, and verbally expressed that he lost trust [in Mother] and [her] efforts in reunifying with him."

Mother was discharged from her renewed individual counseling in January 2014, due to no shows. She began therapy with another provider in March 2014 with the goals of understanding appropriate parenting and discipline, and learning about Kenny's hyperactivity and about appropriate parenting strategies. The new therapist

noted Mother had limited insight into the reasons for SSA's intervention, and she continued to say Kenny was lying and he was the problem. She took no responsibility for Kenny's removal and expressed little motivation to make any changes. By late April 2014, Mother continued to express those same sentiments in therapy and the therapist surmised that reunifying with Kenny was not a priority for Mother.

In the meantime, Father had begun communicating with the social worker from Vietnam and wanted to participate in reunification services. Father explained he met Mother when he came to California as an international student in 2002, they married, and Kenny was born. Father told the social worker he had a stroke in 2008 and began receiving medical treatment, but when he ran out of money and insurance, he had to return home to Vietnam to continue receiving medical care. Thereafter, Mother filed for divorce, changed her telephone number, and cut off his contact with Kenny. Father said he had been trying to find Kenny ever since. SSA recommended terminating services for Mother and ordering services for Father.

At the 12-month review hearing held on May 27, 2014, Mother and Father submitted on the reports and stipulated to the court's findings. The findings included that reasonable services had been provided and continued supervision was necessary. The court extended Mother's services and approved a service plan for Father. An 18-month review hearing was set for September 24, 2014.

18-Month Review Hearing

By June 2014, Father began having weekly visits with Kenny via Skype and began sharing with the social worker his answers to questions in a parenting handbook SSA had sent to him. He informed the social worker he had begun working on obtaining a passport and visa so he could come from Vietnam and take Kenny back to Vietnam with him.

Mother's therapist reported in June 2014 that Mother actively cooperated in her sessions, but she rarely brought up Kenny or reunification unless prompted by the

therapist. Mother cancelled three June visits with Kenny, but her other visits went well. Mother's therapist said Mother's motivation to reunify increased once Father had been located as she did not want him involved with Kenny. Mother said she planned on moving out of the residence she shared with V. but did not mention ending that relationship. She planned to move in with her own mother and cousin to facilitate reunification. In late July, Mother had three no shows for counseling sessions, and the social worker had to reinstate Mother's counseling services.

Kenny remained placed at New Alternatives with SSA unable to find a suitable foster home for him due to behavioral and emotional problems that included tantrums and assaultive conduct towards caretakers. By the end of July, Father reported he was not eligible for a nonimmigrant visa to enter the United States and he wanted Kenny to visit him in Vietnam. SSA wanted to explore placement of Kenny with his Father. The court authorized SSA to obtain a United States passport for Kenny. SSA was applying for a Vietnamese passport for Kenny as well, in the event he was placed with Father. Mother indicated she wanted Kenny to be adopted by her parents so he would not be placed with Father in Vietnam.

In September 2014, SSA reported it had placed on hold plans to have Kenny travel to Vietnam to visit Father because of Kenny's continuing psychological and behavioral problems. SSA continued looking for an appropriate foster home placement.

In SSA's first report for the 18-month review hearing, filed September 12, 2014, it reported Kenny was still at New Alternatives, and it requested the hearing be continued to coincide with completion of Kenny's dual citizenship status. The social worker reported Mother continued to disclaim responsibility for the dependency proceeding and she still lived with V. Mother still did not exhibit behaviors indicative of her ability to protect the child. Despite increased participation in her case plan, Mother had not "consistently applied her learned coping skills to reestablish a healthy relation[ship] with Kenny" Father continued to visit with Kenny via Skype. SSA was

recommending that ultimately Kenny would be placed with Father in Vietnam, although Kenny indicated he did not want to go to Vietnam.

Mother's therapist reported in late August 2014 that Mother was trying different techniques to become closer to Kenny and spending more time visiting him. Mother's interactions with Kenny during their monitored visits were appropriate. The court continued the 18-month review hearing to October 22, 2014.

In SSA's second report for the 18-month review hearing, filed October 17, 2014, it recommended terminating services for Mother and continuing the hearing while it continued working on obtaining dual citizenship for Kenny and releasing him to Father in Vietnam.

In early September, Mother failed to attend an appointment with the social worker to review her case plan progress. In October, she told the social worker she stopped participating in individual therapy because the "class [was] done." The social worker told Mother her therapy was not done, and a three-month extension of those services had been approved. Mother said her work schedule prevented her from participating in therapy and there was no improvement with her therapist. The therapist's views differed from hers, and upset her, and she preferred talking to her friends. Mother continued to live with her boyfriend, V. Mother had three more no shows for her therapy session.

In October, SSA reported Kenny was still at New Alternatives, he was doing well, and there had not been any recent behavioral problems. SSA continued to search for a foster home. Kenny continued having weekly Skype visits with Father and was now looking forward to traveling to Vietnam with the social worker for a visit. Problems with obtaining Kenny's passport and dual citizenship were delaying the trip.

In November, Kenny had two altercations at New Alternatives, involving tantrums, damaging property, and assaulting staff and other children. In December, SSA recommended continuing the 18-month review hearing to permit SSA to update the court

on efforts to “repatriate” Kenny with his father in Vietnam. In early December, SSA obtained Kenny’s Vietnam birth certificate and passport.

The 18-month review hearing began on December 8, 2014. Kenny testified he “kind of” liked visiting with Mother, and they ended their visits with a hug, but she never tried to kiss him. He wanted to go to visit his father in Vietnam. Kenny testified he did not want to visit Mother at her house because “there’s a step-dad that hit me[,]” and he did not want longer visits with Mother even if they were in a different place.

The social worker, who had been the assigned social worker since October 2013, testified Mother had completed a parenting class in September 2013. By the end of October 2013, she completed 20 weeks of counseling. She was referred to another therapist for additional counseling, was terminated after three no shows, and referred to a different therapist, with whom she also had counseling for approximately 20 weeks. The social worker testified Mother still did not accept responsibility for the abuse, either with the therapist or directly with the social worker. Mother was discharged from her last therapist for no shows, and she told the social worker she did not want to do any further counseling. As of the 18-month review hearing, Mother was still living with V.

The social worker testified Mother’s interaction with Kenny at visits was very limited, but she did not hurt him or jeopardize his safety during visits. Mother was unable to use her learned parenting skills to redirect the child during visits. Mother completed her first parenting class. Her counseling referral included parenting education. The social worker was aware of additional parenting courses that could have helped Mother, but Mother was very difficult to get in contact with, she had limited availability because of her work schedule, and she wanted to do the parenting component of her plan within her counseling. He had not asked Mother to participate in services other than those in which she had participated.

The social worker and SSA recommended Kenny be sent back to Vietnam with Father. The social worker had sent Father a parenting workbook, which Father

completed. Father told the social worker he had spoken to a psychologist although the social worker had not followed up. Because there was no agency in Vietnam comparable to a social services agency, there was no home evaluation of Father's residence. The social worker testified Mother continued to deny any child abuse occurred. She continued to blame Kenny and refused to take any responsibility for the dependency.

Mother testified Kenny was taken into protective custody after falling, her boyfriend did not hit him, and Kenny was lying about the incident. She testified Kenny lied all the time and she never hit him.

Mother testified her first therapist discussed Kenny's hyperactivity issues and information to help her learn how to be a parent. She was then referred to a Vietnamese-speaking therapist who she did not see. Her last therapist spoke a lot about Mother accepting what she did and also delved into Mother's personal issues. Mother testified that although the social worker mentioned concerns about her parenting skills, he did not ask her to do additional parenting courses or to see another therapist. Mother did not feel counseling was beneficial, but she would go to therapy if re-referred and would have more discussion about parenting and "how to interact with [her] son."

Mother testified she wanted Kenny returned to her care and she would protect him. She was not willing to make V. leave the residence to have Kenny back because Kenny was lying about V. hitting him. Mother testified that if Kenny came home and continued to say V. had hit him, she would tell Kenny not to say such things and she would educate him about not saying untruthful and bad things. Mother was aware of Kenny's special needs and medications for hyperactivity. She did not want Kenny on medication, but if he was returned to her she would keep him on medications until she could get a second opinion. Mother did not believe V. posed any risk to Kenny, and she did not believe she had done anything wrong during the case.

Argument and Ruling

At the conclusion of the 18-month review hearing, SSA requested the juvenile court to either place Kenny with Father in Vietnam or continue the hearing until after Kenny could have an extended visit with Father in Vietnam. It requested services to be terminated as to Mother. SSA argued it provided reasonable services to both parents, particularly given Mother's failure to progress in therapy and repeated assertions she did not have a problem.

Mother's counsel requested Kenny be returned to her custody and argued reasonable services had not been offered to her. Mother's counsel argued SSA did not offer any additional parenting classes despite recognizing Mother's parenting skills were a problem. When the juvenile court questioned what good additional services would do when Mother still did not accept abuse had occurred, counsel offered that the tools and techniques used in more intensive parenting classes often "seem to break through to parents." Mother's counsel agreed neither Mother nor her counsel had made any requests for the more intensive parenting programs she now argued would be beneficial.

The juvenile court declined to return custody of Kenny to either parent. In its oral comments the court criticized SSA and the social worker for failing to ascertain whether Kenny could be safely placed with Father in Vietnam. When the court asked County Counsel if SSA "[had] the foggiest idea of whether or not this father can even parent this child?," she conceded it did not. The court chastised the social worker and SSA for relying entirely on information obtained from Father as to his living situation, his ability to parent a child with serious emotional and behavioral issues, the availability of services in Vietnam, and his ability to obtain a visa to come to the United States, and making no effort to verify anything Father told them.

The juvenile court found Mother failed to make substantive progress on her case plan as evidenced by her continued denial of abuse, and she failed to complete counseling as directed by the social worker. It found reasonable services had been

provided to Mother. The court found that due to SSA's failure to properly supervise the case as to Father, reasonable services had not been provided to Father. The court terminated Mother's services but extended services for Father and continued the 18-month review hearing to June 10, 2015, to give Father a full six months of services. It ordered SSA and the social worker to independently investigate what services and supervision would be available to Father in Vietnam. It directed SSA to provide additional information from Kenny's therapist about Kenny's ability to make the trip to Vietnam and the emotional impact of such a visit on the child, and it ordered it would not grant permission for such a trip until it had further information. Mother filed a notice of appeal.

DISCUSSION

Mother contends the juvenile court erred by finding at the 18-month review hearing that she was offered reasonable reunification services and terminating those services. She argues because the social worker identified her deficient parenting skills as a problem—despite her having completed a parenting program and counseling sessions with two therapists—it was incumbent upon SSA to offer her a more intensive parenting program. We reject Mother's contentions.

Except under circumstances not applicable here, reasonable reunification services must be offered when a child is removed. (§ 361.5; *Earl L. v. Superior Court* (2011) 199 Cal.App.4th 1490, 1501 (*Earl L.*)). Whether the reunification services offered were reasonable and suitable is judged according to the circumstances of the particular case. (*Earl L., supra*, 199 Cal.App.4th at p. 1501.) “[T]he record should show that the supervising agency identified the problems leading to the loss of custody, offered services designed to remedy those problems, maintained reasonable contact with the parents during the course of the service plan, and made reasonable efforts to assist the parents in areas where compliance proved difficult” [Citation.]” (*Ibid.*)

The burden of proof for the reasonable services finding at the 18-month review hearing is preponderance of the evidence. (*Katie V. v. Superior Court* (2005) 130 Cal.App.4th 586, 590-591.) We review the finding under the substantial evidence standard. (*Id.* at p. 598.)

“[I]n reviewing the reasonableness of the reunification services provided by [SSA], we must . . . recognize that in most cases more services might have been provided, and the services which are provided are often imperfect. The standard is not whether the services provided were the best that might have been provided, but whether they were reasonable under the circumstances.” (*Elijah R. v. Superior Court* (1998) 66 Cal.App.4th 965, 969.) In reviewing the reasonableness of services offered, we view the evidence in a light most favorable to the respondent and draw all reasonable inferences to uphold the juvenile court’s order. (*In re Mary B.* (2013) 218 Cal.App.4th 1474, 1483; *Christopher D. v. Superior Court* (2012) 210 Cal.App.4th 60, 70.)

Substantial evidence supports the juvenile court’s finding Mother was offered reasonable reunification services. Kenny was declared a dependent child due to physical abuse by Mother’s live-in boyfriend, in Mother’s presence. Mother denied any abuse occurred, called her son a liar in his presence, and blamed him for having caused the dependency proceeding. She recognized Kenny suffered from ADHD but declined to get any treatment for him. From the outset, the social worker was concerned that Mother viewed her child negatively and was detached from him—visiting only sporadically in the early stages of the dependency.

Implementation and development of Mother’s parenting skills was one of the case plan goals for the reunification period. At the six-month review and the 12-month review, Mother stipulated to the juvenile court’s findings she had been offered reasonable services, limiting her argument to the adequacy of the services offered between the 12- and 18-month review hearings. (*In re Meranda P.* (1997) 56 Cal.App.4th 1143, 1150-1151.) Mother completed a parenting class in

September 2013, but the social worker observed her parenting skills were sorely lacking—she was unable to use her learned parenting skills to redirect Kenny during visits—walking out when there were problems with Kenny and blaming him for not being able to follow the rules. She continued to deny Kenny had been hit or abused by V., called Kenny a liar, and blamed him for the dependency. Despite knowing the social worker would not recommend returning Kenny to her care if she continued to live with V., Mother refused to change her living arrangements. Her parenting plan if Kenny was returned to her and reported further abuse by V. was to educate Kenny on not saying untruthful and bad things. The social worker testified he had offered Mother an additional parenting class in early 2014, but due to her limited availability, Mother wanted to do the parenting component of her services within her counseling. Mother’s counseling referral had an explicit parenting skills component.

Mother concedes she never “enthusiastically embrace[d] parenting and counseling services” that were offered to her. She turned down the additional parenting class that was offered—preferring to address her parenting deficiencies in therapy. She was then discharged from counseling for no-shows, and after ultimately completing sessions with her second counselor, declined further counseling and refused a new counseling referral. Mother said she preferred talking to her friends rather than the therapist, and she did not like that her therapist had views that differed from hers. At the 18-month review hearing, Mother conceded she had never sought additional parenting classes, but she argued there, and on appeal, more might have helped. When the juvenile court questioned what point there was to offering additional services when Mother continued to deny any abuse had occurred, her counsel could only offer that sometimes a more intensive program can result in a “break through.” But the fact that services could have been better does not render them unreasonable. “In almost all cases it will be true that more services could have been provided more frequently and that the services provided were imperfect. The standard is not whether the services provided were the best

that might be provided in an ideal world, but whether the services were reasonable under the circumstances.” (*In re Misako R.* (1991) 2 Cal.App.4th 538, 547.)

We conclude here the services provided were reasonable under the circumstances. We recognize the juvenile court extended services for Father for an additional six months based on its finding he had *not* been provided reasonable services. (See *Tracy J. v. Superior Court* (2012) 202 Cal.App.4th 1415, 1424 [juvenile court may continue 18-month review hearing under section 352 if it finds reasonable services not provided to parent].) But extending services for Father did not require extending services for Mother. (See *In re Jesse W.* (2007) 157 Cal.App.4th 49, 59.)

DISPOSITION

The order is affirmed.

O'LEARY, P. J.

WE CONCUR:

ARONSON, J.

IKOLA, J.